

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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LESLIE M. GREENWOOD,

Plaintiff,

v.

**DECISION AND ORDER**

21-CV-1101S

ARTHREX, INC.,  
TE CONNECTIVITY CORPORATION f/k/a  
HEAT SHRINK INNOVATIONS, LLC, and  
PRECISON EDGE SURGICAL PRODUCTS  
COMPANY, LLC,

Defendants.

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In this removed diversity action, Plaintiff Leslie Greenwood alleges product liability against Defendant Arthrex, Inc. (“Arthrex”), for a medical device used during Plaintiff’s surgery. Presently before this Court is Arthrex’s Motion for Judgment on the Pleadings (Docket No. 37), seeking dismissal of the Second Amended Complaint with prejudice. Plaintiff opposes this Motion and cross-moves for leave to file a Third Amended Complaint (Docket No. 41).

As an initial matter, this Court grants Greenwood’s Cross-Motion (id.) to Amend her Second Amended Complaint (Docket No. 13). District Courts have broad discretion to grant a party leave to amend its pleadings and the Federal Rules dictate that courts “freely give leave when justice so requires,” Fed. R. Civ. P. 15(a)(2); see also Foman v. Davis, 371 U.S. 178, 182, 83 S.Ct. 227, 9 L.Ed.2d 222 (1962); Ellis v. Chao, 336 F.3d 114, 127 (2d Cir. 2003). Given the procedural posture of this case, this Court finds it most expeditious and in the interest of judicial economy to permit Greenwood to amend her Second Amended Complaint as proposed (Docket No. 41, Ex. B) and assess Arthrex’s

Motion for Judgment on the Pleadings as against that pleading. Consequently, Greenwood's Cross-Motion to Amend (Docket No. 41) is granted.

Greenwood, however, submitted only the redline version of her proposed Third Amended Complaint (Docket No. 41, Ex. B), cf. W.D.N.Y. Loc. Civ. R. 15(b). Contrary to this Court's Local Civil Rules, W.D.N.Y. Loc. Civ. R. 15(a), she did not also submit a clean version of the proposed Third Amended Complaint. Plaintiff thus shall file and serve the final version of the Third Amended Complaint within 10 days of entry of this Decision. Once filed, the Third Amended Complaint becomes the operative pleading in this matter for Arthrex's pending Motion for Judgment on the Pleadings (Docket No. 37). No further briefing shall be required for Arthrex's Motion.

IT HEREBY IS ORDERED, that Plaintiff's Cross-Motion for Leave to Amend the Complaint (Docket No. 41) is granted and Plaintiff shall file a clean, final version (cf. Docket No. 41, Ex. B) of the Third Amended Complaint within 10 days of entry of this Decision.

SO ORDERED.

Dated: January 3, 2023  
Buffalo, New York

s/William M. Skretny  
WILLIAM M. SKRETNY  
United States District Judge